

SB3373



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3373

Introduced 2/14/2020, by Sen. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

305 ILCS 5/5-4.2

from Ch. 23, par. 5-4.2

Amends the Medical Assistance Article of the Illinois Public Aid Code. In a provision requiring the Department of Healthcare and Family Services to establish, by rule, a process by which a provider of ambulance services can appeal a denied request for payment of ambulance services (rather than payment of non-emergency transportation by means of ground ambulance service), provides that for all appeals concerning ambulance services provided on and after December 15, 2012, the provider of ambulance services shall establish the medical necessity of the transport utilizing the patient care report and any other materials available in accordance with specified criteria established under the Code. Provides that a Physician Certification Statement, Certificate of Transportation Services, or Medical Certification for Non-Emergency Ambulance form is not necessary to establish medical necessity on appeal.

LRB101 19175 KTG 68638 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning public aid.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Aid Code is amended by
5 changing Section 5-4.2 as follows:

6 (305 ILCS 5/5-4.2) (from Ch. 23, par. 5-4.2)

7 Sec. 5-4.2. Ambulance services payments.

8 (a) For ambulance services provided to a recipient of aid
9 under this Article on or after January 1, 1993, the Illinois
10 Department shall reimburse ambulance service providers at
11 rates calculated in accordance with this Section. It is the
12 intent of the General Assembly to provide adequate
13 reimbursement for ambulance services so as to ensure adequate
14 access to services for recipients of aid under this Article and
15 to provide appropriate incentives to ambulance service
16 providers to provide services in an efficient and
17 cost-effective manner. Thus, it is the intent of the General
18 Assembly that the Illinois Department implement a
19 reimbursement system for ambulance services that, to the extent
20 practicable and subject to the availability of funds
21 appropriated by the General Assembly for this purpose, is
22 consistent with the payment principles of Medicare. To ensure
23 uniformity between the payment principles of Medicare and

1 Medicaid, the Illinois Department shall follow, to the extent
2 necessary and practicable and subject to the availability of
3 funds appropriated by the General Assembly for this purpose,
4 the statutes, laws, regulations, policies, procedures,
5 principles, definitions, guidelines, and manuals used to
6 determine the amounts paid to ambulance service providers under
7 Title XVIII of the Social Security Act (Medicare).

8 (b) For ambulance services provided to a recipient of aid
9 under this Article on or after January 1, 1996, the Illinois
10 Department shall reimburse ambulance service providers based
11 upon the actual distance traveled if a natural disaster,
12 weather conditions, road repairs, or traffic congestion
13 necessitates the use of a route other than the most direct
14 route.

15 (c) For purposes of this Section, "ambulance services"
16 includes medical transportation services provided by means of
17 an ambulance, medi-car, service car, or taxi.

18 (c-1) For purposes of this Section, "ground ambulance
19 service" means medical transportation services that are
20 described as ground ambulance services by the Centers for
21 Medicare and Medicaid Services and provided in a vehicle that
22 is licensed as an ambulance by the Illinois Department of
23 Public Health pursuant to the Emergency Medical Services (EMS)
24 Systems Act.

25 (c-2) For purposes of this Section, "ground ambulance
26 service provider" means a vehicle service provider as described

1 in the Emergency Medical Services (EMS) Systems Act that
2 operates licensed ambulances for the purpose of providing
3 emergency ambulance services, or non-emergency ambulance
4 services, or both. For purposes of this Section, this includes
5 both ambulance providers and ambulance suppliers as described
6 by the Centers for Medicare and Medicaid Services.

7 (c-3) For purposes of this Section, "medi-car" means
8 transportation services provided to a patient who is confined
9 to a wheelchair and requires the use of a hydraulic or electric
10 lift or ramp and wheelchair lockdown when the patient's
11 condition does not require medical observation, medical
12 supervision, medical equipment, the administration of
13 medications, or the administration of oxygen.

14 (c-4) For purposes of this Section, "service car" means
15 transportation services provided to a patient by a passenger
16 vehicle where that patient does not require the specialized
17 modes described in subsection (c-1) or (c-3).

18 (d) This Section does not prohibit separate billing by
19 ambulance service providers for oxygen furnished while
20 providing advanced life support services.

21 (e) Beginning with services rendered on or after July 1,
22 2008, all providers of non-emergency medi-car and service car
23 transportation must certify that the driver and employee
24 attendant, as applicable, have completed a safety program
25 approved by the Department to protect both the patient and the
26 driver, prior to transporting a patient. The provider must

1 maintain this certification in its records. The provider shall
2 produce such documentation upon demand by the Department or its
3 representative. Failure to produce documentation of such
4 training shall result in recovery of any payments made by the
5 Department for services rendered by a non-certified driver or
6 employee attendant. Medi-car and service car providers must
7 maintain legible documentation in their records of the driver
8 and, as applicable, employee attendant that actually
9 transported the patient. Providers must recertify all drivers
10 and employee attendants every 3 years.

11 Notwithstanding the requirements above, any public
12 transportation provider of medi-car and service car
13 transportation that receives federal funding under 49 U.S.C.
14 5307 and 5311 need not certify its drivers and employee
15 attendants under this Section, since safety training is already
16 federally mandated.

17 (f) With respect to any policy or program administered by
18 the Department or its agent regarding approval of non-emergency
19 medical transportation by ground ambulance service providers,
20 including, but not limited to, the Non-Emergency
21 Transportation Services Prior Approval Program (NETSPAP), the
22 Department shall establish by rule a process by which ~~ground~~
23 ~~ambulance service~~ providers of ambulance services, as defined
24 in subsection (c), non-emergency medical transportation may
25 appeal any decision by the Department or its agent for which no
26 denial was received prior to the time of transport that either

1 (i) denies a request for approval for payment of ambulance
2 services ~~non-emergency transportation by means of ground~~
3 ~~ambulance service~~ or (ii) grants a request for approval of
4 ambulance services ~~non-emergency transportation~~ by means of
5 ~~ground ambulance~~ service at a level of service that entitles
6 the ~~ground ambulance service~~ provider to a lower level of
7 compensation from the Department than the ~~ground ambulance~~
8 ~~service~~ provider would have received as compensation for the
9 level of service requested. For all appeals under this
10 subsection concerning ambulance services provided on and after
11 December 15, 2012, the provider shall establish the medical
12 necessity of the transport utilizing the patient care report
13 and any other materials available in accordance with the
14 criteria established in subsection (f-5). A Physician
15 Certification Statement, Certificate of Transportation
16 Services, or Medical Certification for Non-Emergency Ambulance
17 form is not necessary to establish medical necessity on appeal.
18 The rule shall be filed by December 15, 2012 and shall provide
19 that, for any decision rendered by the Department or its agent
20 on or after the date the rule takes effect, the ground
21 ambulance service provider shall have 60 days from the date the
22 decision is received to file an appeal. The rule established by
23 the Department shall be, insofar as is practical, consistent
24 with the Illinois Administrative Procedure Act. The Director's
25 decision on an appeal under this Section shall be a final
26 administrative decision subject to review under the

1 Administrative Review Law.

2 (f-5) Beginning 90 days after July 20, 2012 (the effective
3 date of Public Act 97-842), (i) no denial of a request for
4 approval for payment of non-emergency transportation by means
5 of ground ambulance service, and (ii) no approval of
6 non-emergency transportation by means of ground ambulance
7 service at a level of service that entitles the ground
8 ambulance service provider to a lower level of compensation
9 from the Department than would have been received at the level
10 of service submitted by the ground ambulance service provider,
11 may be issued by the Department or its agent unless the
12 Department has submitted the criteria for determining the
13 appropriateness of the transport for first notice publication
14 in the Illinois Register pursuant to Section 5-40 of the
15 Illinois Administrative Procedure Act.

16 (g) Whenever a patient covered by a medical assistance
17 program under this Code or by another medical program
18 administered by the Department, including a patient covered
19 under the State's Medicaid managed care program, is being
20 transported from a facility and requires non-emergency
21 transportation including ground ambulance, medi-car, or
22 service car transportation, a Physician Certification
23 Statement as described in this Section shall be required for
24 each patient. Facilities shall develop procedures for a
25 licensed medical professional to provide a written and signed
26 Physician Certification Statement. The Physician Certification

1 Statement shall specify the level of transportation services
2 needed and complete a medical certification establishing the
3 criteria for approval of non-emergency ambulance
4 transportation, as published by the Department of Healthcare
5 and Family Services, that is met by the patient. This
6 certification shall be completed prior to ordering the
7 transportation service and prior to patient discharge. The
8 Physician Certification Statement is not required prior to
9 transport if a delay in transport can be expected to negatively
10 affect the patient outcome.

11 The medical certification specifying the level and type of
12 non-emergency transportation needed shall be in the form of the
13 Physician Certification Statement on a standardized form
14 prescribed by the Department of Healthcare and Family Services.
15 Within 75 days after July 27, 2018 (the effective date of
16 Public Act 100-646), the Department of Healthcare and Family
17 Services shall develop a standardized form of the Physician
18 Certification Statement specifying the level and type of
19 transportation services needed in consultation with the
20 Department of Public Health, Medicaid managed care
21 organizations, a statewide association representing ambulance
22 providers, a statewide association representing hospitals, 3
23 statewide associations representing nursing homes, and other
24 stakeholders. The Physician Certification Statement shall
25 include, but is not limited to, the criteria necessary to
26 demonstrate medical necessity for the level of transport needed

1 as required by (i) the Department of Healthcare and Family
2 Services and (ii) the federal Centers for Medicare and Medicaid
3 Services as outlined in the Centers for Medicare and Medicaid
4 Services' Medicare Benefit Policy Manual, Pub. 100-02, Chap.
5 10, Sec. 10.2.1, et seq. The use of the Physician Certification
6 Statement shall satisfy the obligations of hospitals under
7 Section 6.22 of the Hospital Licensing Act and nursing homes
8 under Section 2-217 of the Nursing Home Care Act.
9 Implementation and acceptance of the Physician Certification
10 Statement shall take place no later than 90 days after the
11 issuance of the Physician Certification Statement by the
12 Department of Healthcare and Family Services.

13 Pursuant to subsection (E) of Section 12-4.25 of this Code,
14 the Department is entitled to recover overpayments paid to a
15 provider or vendor, including, but not limited to, from the
16 discharging physician, the discharging facility, and the
17 ground ambulance service provider, in instances where a
18 non-emergency ground ambulance service is rendered as the
19 result of improper or false certification.

20 Beginning October 1, 2018, the Department of Healthcare and
21 Family Services shall collect data from Medicaid managed care
22 organizations and transportation brokers, including the
23 Department's NETSPAP broker, regarding denials and appeals
24 related to the missing or incomplete Physician Certification
25 Statement forms and overall compliance with this subsection.
26 The Department of Healthcare and Family Services shall publish

1 quarterly results on its website within 15 days following the
2 end of each quarter.

3 (h) On and after July 1, 2012, the Department shall reduce
4 any rate of reimbursement for services or other payments or
5 alter any methodologies authorized by this Code to reduce any
6 rate of reimbursement for services or other payments in
7 accordance with Section 5-5e.

8 (i) On and after July 1, 2018, the Department shall
9 increase the base rate of reimbursement for both base charges
10 and mileage charges for ground ambulance service providers for
11 medical transportation services provided by means of a ground
12 ambulance to a level not lower than 112% of the base rate in
13 effect as of June 30, 2018.

14 (Source: P.A. 100-587, eff. 6-4-18; 100-646, eff. 7-27-18;
15 101-81, eff. 7-12-19.)